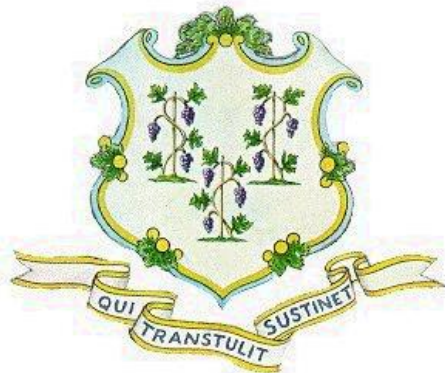




## **Community Development Block Grant Disaster Recovery (CDBG-DR)**

### **Program Guide Public Facilities, Infrastructure, and Planning**



## **State of Connecticut Department of Housing**

**2014**



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## Introduction

The State of Connecticut's primary goal in allocating a portion of the funding for the rehabilitation of public facilities is to restore a suitable living environment in disaster impacted areas by rehabilitating or reconstructing existing public facilities, including those public facilities that primarily serve LMI persons. The State also intends to make repairs in a manner that supports energy conservation/efficiency objectives and responsible growth as well as transit-oriented development (See CDBG-DR Action Plan). For the purposes of these guidelines, the State has allocated \$2,200,000 toward the rehabilitation or reconstruction of public facilities.

Infrastructure unmet needs are limited to the repair or replacement of existing infrastructure. The largest unmet need identified to date in the area of infrastructure is the repair or replacement of drainage systems. However, roads and seawalls also have significant unmet repair and rebuilding needs. These three areas constitute over seventy-six percent (76.26%) of repair and replacement activities identified. In total, nearly 99% of the activities identified as having unmet needs are located in Fairfield and New Haven counties. For the purposes of these guidelines, the State has allocated \$4,000,000 toward the repair or replacement of existing infrastructure.

HUD guidelines allow the State, like other states to which it has allocated CDBG-DR Program funds, to opt to expend up to 15% of its CDBG-DR funds for planning activities. It is important for Connecticut to be proactive in anticipation of future natural disasters. Accordingly, DOH intends to expend just over \$2 million in planning activities to assist in the planning processes associated with improving the resiliency of infrastructure and public facilities, and providing mitigation activities in the areas of the State that are eligible for the expenditure of the funding. These Planning activities may include, for example:

- Research to develop strategies to address the health and safety of homeless individuals and families and other vulnerable populations;

- Plans to address foreseeable mitigation and resiliency projects, particularly as they relate to critical infrastructure;
- Plans to avoid fuel shortages during disasters;

Public facilities projects, infrastructure projects and planning grants will be selected on a basis modeled after the Small Cities CDBG Program. Funding will be available to specific projects submitted by municipalities and their partners through a competitive application round. DOH will provide advance notice of fund availability but will reserve the right to cease accepting applications at any time that all available funds have been committed.

## Program Requirements

Consistent with CDBG-DR Program Requirements, the State's use of a portion of the funding for this program will be consistent with the following:

1. **Unmet Needs** –funding is available solely to address unmet needs.
2. **Eligible/Fundable** – each project must be determined to be an eligible and fundable activity under the Housing and Community Development Act as modified by the Federal Register Notice and all other applicable regulations and related guidance.
3. **Impacted and Distressed Area** – each project must be located in one of the four counties in which the expenditure of the Funding is allowable (i.e. Fairfield County, New Haven County, Middlesex County, New London County) or the Mashantucket Pequot Indian Reservation, all of which sustained significant damage from Hurricane Sandy.
4. **Readiness to Proceed** – each project must capable of being undertaken (design or construction) immediately to provide outcomes to intended beneficiaries affected by the disaster. All projects must include a project timeline that allows DOH to meet the Federal expenditure deadline of September 30, 2017.

5. **Feasibility** – each project must be found to be financially feasible, sustainable and likely to contribute to the long-term recovery of disaster impacted communities.
6. **Consistency with Consolidated Plan/Action Plan** – each project must be reflective of the goals, priorities and requirements of the State of Connecticut’s Disaster Recovery Action Plan.

## Definitions

**CDBG-DR** –Community Development Block Grant Disaster Recovery program

**CHAMP** –Competitive Housing Assistance for Multifamily Properties

**CHFA** - Connecticut Housing Finance Authority

**Contractors** - Procured contractors providing supplies, equipment, construction, or services, and may be further restricted by Program Rules or other guidance including applications.

**Demolition** – Clearance and proper disposal of dilapidated buildings and improvements.

**DOH** - Department of Housing or its duly authorized agent

**DECD** - Department of Economic and Community Development

**Low to Moderate Income (LMI) National Objective** – Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size.

1. **Very low:** Household’s annual income is up to 30% of the area median family income, as determined by HUD, adjusted for family size;
2. **Low:** Household’s annual income is between 31% and 50% of the area median family income, as determined by HUD, adjusted for family size;
3. **Moderate:** Household’s annual income is between 51% and 80% of the area median family income, as determined by HUD, adjusted for family size.

***Slum and Blight National Objective*** – Activities which help to eliminate slums and blighted conditions. Use of this National Objective is limited due to its inability to contribute towards the overall requirement for. Slum and Blight activities must meet the criteria of one of the three following categories:

1. Prevent or eliminate slums and blight on an area basis;
2. Prevent or eliminate slum and blight on a spot basis; or
3. Be in an urban renewal area.

***Urgent Need National Objective*** – An urgent need that exists because existing conditions pose serious and immediate threat to health/welfare of community, the existing conditions are recent or recently became urgent (typically within 18 months), and because other funding sources are not available.

***DOL*** - Federal Department of Labor

***Duplication of Benefits*** - The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of a loss resulting from a major disaster as to which financial assistance has already been received under any other program or from insurance or any other source.

***HUD*** – Federal Department of Housing and Urban Development

***Subrecipient*** - Cities, Counties, Indian Tribes, local governmental agencies (including Councils of Government {COGs}), private non-profits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o).

***Family*** – A household composed of two or more related persons. The term family also includes one or more eligible persons living with another person or persons who are determined to be important to their care or wellbeing, and the surviving member or members of any family described in this definition who were living in a unit assisted under the HOPWA program with the person with AIDS at the time of his or her death.

**Household** – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of:

1. a single family,
2. two (2) or more families living together, or
3. any other group of related or unrelated persons who share living arrangements.

For housing activities, the test of meeting the low to moderate income objective is based on the LMI of households.

**PRWORA** - Personal Responsibility and Work Opportunity Reconciliation Act

**FEMA** - Federal Emergency Management Agency

**FEMA- Areas Of High Risk** - Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**NFIP** - National Flood Insurance Program

**Area of High Minority Concentration** – A census block group that consists of 65% or more of minorities. Minorities include all racial and ethnic population groups other than “White, non-Hispanic (Anglo).

**Area of High Poverty Concentration** – A census block group that consists of 35% or more of the residents living in poverty. A household that meets the US Census Bureau’s poverty threshold is considered to be at or below poverty level for the Disaster Recovery Program.

**NTP** - Notice to Proceed

**IECC** - International Energy Conservation Code 2009

**Demonstrable Hardship** – an applicant for assistance has identified and documented one or more instance or condition which would prevent them from fully meeting any non-regulatory guideline.

***Not Suitable for Rehabilitation*** – properties where the cost of rehabilitation exceeds the after rehab appraisal and there is not a compelling historical or community justification to save the property.

## **Funding Priorities**

Funding Priorities for infrastructure projects, public facility projects and planning grants are:

1. Projects that benefit LMI persons and/or are located in LMI Areas (i.e. an area with household incomes at or below 80% of the area median income).
2. Projects that enable the State to satisfy the federal requirement that at least 80% of the funding must be spent in Fairfield and New Haven Counties.
3. Projects that address conditions that threaten the health and safety of either the occupants or the public.
4. Projects that contribute significantly to the long-term recovery and economic revitalization of the affected area.
5. Projects undertaken on behalf of a beneficiary or sponsor that commits to contribute financially in the repair, construction or mitigation of the project (this can be through private insurance, NFIP, FEMA, SBA, and/or other sources).
6. Mitigation – cost effective resiliency and other activities designed to harden the property in order to minimize reoccurrence of storm damage whenever possible.

## **Minimum/Maximum Assistance:**

Financial assistance to eligible communities shall be determined based on unmet need. The minimum allocation will be \$100,000. There will be not set maximum. The DOH will determine the actual amount of assistance based on an evaluation of submitted project materials and the content of the application.



## **DOH Roles and Responsibilities**

The DOH staff dedicated to the administration of the Funding will be responsible for complying with the significant federal requirements related to financial management and control of programmatic compliance and monitoring, affirmative fair housing, the prevention of fraud, waste and abuse. These staff members will be responsible for administering all aspects of the State's CDBG-DR Program, including oversight of all contractors, working with individual applicants, processing the necessary payments, tracking projects and program activities, reporting in the federal Disaster Recovery Grants Administration (DRGR) system, as well as coordinating the activities of other state agencies in relation to the Sandy recovery.

In addition to these dedicated staff, the Internal Auditor for DOH, who reports directly to the Office of the Commissioner, is responsible for ensuring that procedures to detect fraud, waste and abuse are both adopted and implemented in accordance with federal requirements and consistent with the Statement on Auditing Standards No. 99 (SAS99) and the standards established for the International Standards for the Professional Practice of Internal Auditing as promulgated by the Institute of Internal Auditors (IIA).

## **Eligible Activities**

The repair, rehabilitation or replacement of publicly owned facilities, systems, and infrastructure directly damaged by Hurricane Sandy are considered eligible activities under this program.

## Mitigation and Resiliency Activities

It is anticipated that most resiliency and mitigation investments will be funded with a future allocation of the CDBG-DR program funding. With over \$24 million in existing requests for resiliency and mitigation measures, the State will seek local and regional cooperation in prioritizing and leveraging these investments by utilizing CDBG- DR planning funds. In addition, as the State proceeds with the update of the State Hazard Mitigation Plan, as well as the State Plan for Conservation and Development, it is expected that the need for significant investment in resiliency measures associated with infrastructure and public facilities will be further documented.

## Scope of Work

A proposed description of work must be submitted with each application from a local government or other party. The scope of work must be developed by an engineer/architect licensed to practice in Connecticut, and must include, at a minimum, the following information:

- A description of the project area including the larger planning area if part of a larger plan.
- Map(s) of the project area showing a schematic layout. Include scale and legend.
- Describe the damage caused by Hurricane Sandy.
- Describe the critical need for the project as it relates to health and environmental consequences.
- Describe the project design
- Provide a discussion of easements or right-of-way and any street repairs necessary to the improvement.
- Provide color copies of NOAA Sea Level Rise Maps showing 1', 3' and 5' Rises
- Provide an itemized cost estimate and the amount of unmet need anticipated at the time of bid.

- Provide the estimated term of construction.
- For water and sewer projects, provide an annual operating budget including income from an attached rate schedule and project operating and maintenance costs.
- Provide information on permits needed and how long it will take for their receipt once application is made.

All projects will be competitively bid in accordance with 24 CFR 85.

## **Duplication of Benefits**

The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of a loss resulting from a major disaster as to which he has already received financial assistance under any other program or from insurance or any other source. Duplication of Benefits also exists if funds were received from other sources and not used for a recognized “Allowable Activity.” Applicants will be required to contribute unspent Sandy funds in order to receive assistance from the Program

The DR Program Manager will coordinate and work closely with the eligible local government and other sources as appropriate to determine the total amount of money received by the local government for the repair of the infrastructure, as well as any other costs being considered for funding by the CDBG-DR Infrastructure program.

Examples of other sources which, if received, applicants will be required to disclose in order to receive assistance from this program include:

- FEMA benefits (Public Assistance, Individual Assistance, Hazard Mitigation Grant Program, etc.)
- Army Corps of Engineers Assistance
- HUD Community Development Programs

- Other State or charitable assistance
- Private Insurance
- Any other funding source that may duplicate assistance.

## **Environmental Review**

Participation in the CDBG-DR Program requires compliance with the National Environmental Policy Act (NEPA). The Environmental Review Process and the compilation of the Environmental Review Record will be started and administered by DOH as soon as the Scope of the CDBG-DR Project is determined.

DOH is prohibited from incurring any hard costs, entering into contracts, or acquiring property prior to HUD's written approval of DOH's Request for Release of Funds (RROF) as described below. Activities improperly incurring funds prior to the issuance of a Release of Funds May likely result in project ineligibility.

Following completion of the Statutory Checklist, Environmental Assessment Checklist and the Environmental Review Record, DOH is required to submit to HUD a Request for the Release of Funds (RROF). Until HUD's written approval of the RROF is received, DOH cannot commit HUD funds for any activity or project (24 CFR Part 58, Section 58.22(a)).

## **Davis-Bacon Act**

Public facility and Infrastructure contracts in excess of \$2,000 must comply with Davis-Bacon and Related Acts (DBRA). DOH is responsible for enforcement of the DBRA requirements, such as on-site interview of workers, review of contractor's payrolls, and conducting a pre-construction conference.

The requirements of the Davis-Bacon Act and the procedures that must be followed to prove compliance are complex. Therefore, for projects that will be subject to Davis-Bacon, it is strongly recommended that the following HUD handbooks be consulted:

- Making Davis-Bacon Work, A Practical Guide for States, Indian Tribes and Local Agencies
- A Contractor's Guide to Davis-Bacon Wage Requirements and Certified Payroll Reports
- Labor Standards Administration and Enforcement Guidelines for HUD Program Participants.

Failure to comply with the requirements of the Davis-Bacon Act or an inability to prove compliance is a serious matter and can result in a forfeiture of all Federal funds spent on the project.

## Construction Phase

The applicant will be responsible for all construction procurement. The applicant will bid the construction of all infrastructure and public facilities projects. The applicant will follow all of the requirements of 24 CFR part 85 and the DOH procurement policy. The applicant will select the lowest, responsible bidder for each project.

As soon as a the grant closing is scheduled and a construction start date is known, the applicant's Project Manager shall notify the DOH Program Manager so they can determine if the project merits the assignment of a Construction Management Specialist to oversee the project on behalf of DOH. DOH will have under contract a firm that will provide construction project assistance.

As part of the application process, the Community Development Agent shall meet with the local government staff or designee assigned to the project and the contractor regarding the responsibilities and obligations of each during the development of a project, including, but not limited to the following:

- Davis Bacon Wage requirements
- Section 3 Hiring requirements
- EEO requirements, CHRO Affirmative Action Plan
- Property Acquisition and Relocation requirements
- Procurement requirements
- Draw down procedures and requirements

The Community Development Agent shall monitor a project for compliance with the above requirements on a regular basis within the development phase. This monitoring may be a “desk monitoring”: using reports submitted by the contractor or local government, or it may be an actual on-site monitoring of the project. Projects will be monitored on-site depending on the results of a risk analysis.

## **Change Orders**

If additional work is necessary to make repairs or to correct unforeseen dangerous conditions, the contractor shall submit to the applicant and the Construction Specialist a Change Order consisting of what type of work is needed, the cost of such work, and the time necessary for such work to be completed. Unless it is determined there exists an immediate health and safety danger, no work shall be authorized until agreed upon in writing by the DOH Community Development Agent, contractor, and the Construction Specialist. If the total of all Change Orders amounts to above ten percent (10%) of the original contract amount, these orders will be reviewed for cost reasonableness by DOH.

**Any work done without prior approval will not be funded by the CDBG-DR Infrastructure and Public Facilities program.**

## **Requisitions & Payments**

Upon satisfactory completion of work and sign-off by the DOH Construction Specialist program funds are issued to the contractor. Payments are made as the work progresses and with Project Manager or Construction Specialist approval; roughly once per month. A 10% retention will be withheld from every payment. Final payment will include the 10% retainage.

## Project Closeout

Once the construction work is completed, DOH will ask the local government for sign-off on the construction and local code requirements. DOH construction management staff will do a final inspection of all work to ensure that construction is complete and meets local code requirements. Community Development Agents will be required to ensure that documents are complete and signed. CDBG-DR cross cutting requirements should be maintained in the project files including:

- Environmental Review Record
- Davis- Bacon payrolls and interviews
- Section 504 Compliance
- Section 3 Compliance
- Procurement Documentation